CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☑ Fo	orce	<u> </u>	Discourt.	U.S.
Eric Rigie		Squad #1	201409968			П	O.L.	✓ Injury
		- 1 · · · · ·						
Incident Date(s)		Location of Incident:		Pre	cinct:	18	Mo. SOL	EO SOL
Sunday, 09/28/2014 12:25 AM					46	3,	/28/2016	3/28/2016
Date/Time CV Reported		CV Reported At:	How CV Reported	; Da	ate/Time	Rece	eived at CC	RB
Sun, 09/28/2014 1:53 PM		CCRB	On-line website	Sı	ın, 09/28	3/201	4 1:53 PM	
Complainant/Victim	Type	Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Derrick Kreckmann	26021	954032	PBBX					
2. POM Butrint Mujaj	06953	954159	PBBX					
3. LT Seth Lynch	00000	932932	PBBX					
4. CPT Keith Walton	00000	917193	PBBX					
5. An officer								
6. SGT Brian Ramirez	1750	937327	046 PCT					
Witness Officer(s)	Shield N	Io Tax No	Cmd Name					
1. POM Luis Candelaria	10516	953720	PBBX					
2. POM John Ferrara	02628	948959	046 PCT					
3. POF Jammie Martinez	05956	954101	PBBX					
4. SGT Kelvin Garcia	2599	936650	046 PCT					
5. POM Keven Martinez	24795	954102	PBBX					
Officer(s)	Allegation	on			Inve	stiga	ator Recor	nmendation
A.POM Derrick Kreckmann	Abuse: A		ween § 87(2)(b)	and	d			
	§ 87(2)(b)	in the Bronx, Po o provide his shield nur	O Derrick Kreckman	n				
B.POM Butrint Mujaj	Force: A	•	veen § 87(2)(b)	and				
D.1 OW Burnit Wajaj	§ 87(2)(b)	in the Bronx, Po	O Butrint Mujaj used					
		force against § 87(2)(b)						
C.POM Derrick Kreckmann	Force: A § 87(2)(b)		veen ^{§ 87(2)(b)} O Derrick Kreckman	and				
		force against § 87(2)(b)	O Derrick Kreckman	ın used				
D.POM Derrick Kreckmann		esy: At § 87(2)(b)	between § 87(2)(b)					
	and § 87(2)(in the Bron	x, PO Derrick Kreck	mann				
E DOM D. A. AMARIA		courtesly toward § 87(2)(b)						
E.POM Butrint Mujaj	and § 87(2)(esy: At ^{\$ 87(2)(b)} in the Bron esly to ^{\$ 87(2)(b)}	between § 87(2)(b) x, PO Butrint Mujaj	spoke				
F.SGT Brian Ramirez	Abuse: E	Enroute to the 46th Precidid not obtain medical		t. Bria	n			
G.LT Seth Lynch	Abuse: A	At the 46th Precinct stati n medical treatment for	ionhouse, Lt. Seth Ly	ynch di	id			

Officer(s)	Allegation	Investigator Recommendation
H.POM Butrint Mujaj	Abuse: At the 46th Precinct stationhouse, PO Butrint Mujaj strip-searched § 87(2)(b)	
I. An officer	Abuse: At the 46th Precinct stationhouse, an officer did not obtain medical treatment for \$87(2)(b)	
J.CPT Keith Walton	Discourtesy: At the 46th Precinct stationhouse, Cpt. Keith Walton spoke discourtesly to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On September 28, 2014, at approximately 12:25 a.m., \$87(2)(b) was filming PO Derrick Kreckmann, PO Butrint Mujaj, and PO Jammie Martinez on between \$87(2)(b) and \$87(2)(b) is the founding member of an activist group called, \$87(2)(b) This group's function is to observe and record police interactions with civilians. \$87(2)(b) provided video of this incident to the investigation as well as to the media. Due to a subsequent article in \$87(2)(b) this case was placed on the agency's sensitive case list.
While standing across the street from the officers, PO Kreckmann shined his flashlight at and asked him how his camera work was. Ser(2)(b) immediately jaywalked across towards the officers. On approaching the officers, Ser(2)(b) asked for PO Kreckmann's shield number. PO Kreckmann did not provide his shield number during this incident (Allegation A).
PO Kreckmann replied to \$87(2)(b) s name and shield request by saying "sure," and asked for solution in the same and shield request by saying "sure," and asked for his shield number. PO Kreckmann told \$87(2)(b) that he had jaywalked and again asked for his again refused to provide it. PO Kreckmann then instructed \$87(2)(b) to put his hands behind his back twice, but \$87(2)(b) refused to comply both times. PO Kreckmann and PO Mujaj then grabbed \$87(2)(b) s arms with PO Kreckmann raising his arms up behind his back. \$87(2)(b) alleged that PO Kreckmann and PO Mujaj then pushed him into a metal gate and he hit his head (Allegation B and C). \$87(2)(b) said that while against the gate, PO Kreckmann grabbed his phone out of his hand and intentionally slammed in onto the brick ledge, damaging his phone (Allegation D). PO Kreckmann and PO Mujaj then pulled \$87(2)(b) s hands behind his back and handcuffed him.
The officers called for a supervisor and Sgt. Brian Ramirez arrived on the scene with his operator PO Luis Candelaria. Sgt. Ramirez discussed the situation with the officers. Sa7(2)(b) then asked PO Mujaj why the officers had assaulted him for requesting their shield numbers. PO Mujaj responded, "Well we got your ass. We got you for disorderly conduct, we got you for assaulting a police officer, we got you for obstructing the administration of justice" (Allegation E). Sgt. Ramirez, was then put into Sgt. Ramirez's RMP and driven to the 46 th Precinct stationhouse with Sgt. Ramirez, PO Mujaj, and PO Candelaria. On the ride to the stationhouse, Sa7(2)(b) told Sgt. Ramirez, "You know who I am. I'm no stranger here. I've been here before. A year and a half to two years patrolling this area and your officers assaulted me. So I want to make sure that when we get to the precinct, I get an ambulance." Sgt. Ramirez just smiled at Sa7(2)(b) and did not reply (Allegation F).
On arriving at the front desk of the 46 th Precinct stationhouse, \$87(2)(b) saw Lt. Seth Lynch, who he knew from previous interactions. \$87(2)(b) told Lt. Lynch that he wanted medical attention, but Lt. Lynch just ignored him (Allegation G). \$87(2)(b) was then taken to a bathroom by PO Mujaj, who told \$87(2)(b) to remove his jacket and shirt and then told \$37(2)(c) was then lodged into a holding cell were he interacted with several officers including PO Mujaj. While in the cell, \$37(2)(c) requested medical attention from an unknown male officer (Allegation I). At approximately 2:30 a.m., \$87(2)(b) was released with two summonses, one for jaywalking, and another for possession of a police scanner. PO Mujaj then escorted \$87(2)(b) into Cpt.

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	alton's office. Cpt. Walton wanted to discuss the incident with \$87(2)(b) but refused. Cpt. Walton then told \$87(2)(b) "Get the fuck out of my office then" out of the stationhouse.
	Mediation, Civil and Criminal Histories
(This case was not eligible for mediation, because submitted a notice of claim, and provided testimony to a 50H hearing (01 Board Review).
	Civilian and Officer CCRB Histories
1 1 •]	has 11 other CCRB cases, 10 of these cases were filed since 2012. Of this number, two allegations were substantiated, four were mediated, one closed as other misconduct, one exonerated, two unsubstantiated, three administratively closed, two unfounded, and nine allegations were truncated (03 Board Review). PO Kreckmann has been a member of the NYPD for two years and has eight other CCRB cases. One remains open while the remaining seven contain no substantiated allegations.
•]	PO Mujaj has been a member of the NYPD for two years and this is his first CCRB case. Sgt. Ramirez has been a member of the NYPD for 10 years and has six previous CCRB cases. \$87(2)(g)
	Lt. Lynch has been a member of the NYPD for 11 years and has 10 prior CCRB cases. One force and one entry allegation were substantiated. §87(2)(g)
á	Cpt. Walton has been a member of the NYPD for 18 years and has 17 prior cases. Of the allegations, seven were substantiated, though none were consistent with the facts of this case. He has been the subject of three other discourtesy allegations.

Potential Issues

- The investigation was not able to identify any independent witnesses to this incident.
- PO Jammie Martinez was on LOD leave during the investigation and not able to be interviewed (see IAs 130-132).
- \$87(2)(b) did not cooperate with viewing a photo array to help identify one of the subject officers (see IAs 153 and 159).
- s video of the incident does not show officer faces and is only 48 seconds in length (04 Board Review).

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NYPD Documents

- The 46th Precinct prisoner holding pen roster for September 28, 2014 showed that PO Kern lodged a prisoner at 12:14 a.m. and PO Francis Conejo lodged a prisoner at 12:53 a.m. (05 Board Review).
- The 46th Precinct roll call for Tour 3 on September 27, 2014 listed Sgt. Vladimir Garcia as the desk officer. The roll call also confirmed that PO Conejo and PO Kern were working on September 28, 2014. PO Kern's Tax ID number was not legible in the roll call, so it could not be confirmed if PO Sean Kern or his twin brother, PO Daniel Kern were working on September 28, 2014 (06 Board Review).
- The 46th Precinct roll call for Tour 1 on September 28, 2014 listed Sgt. Kelvin Garcia as the desk officer (07 Board Review).
- The 46th Precinct command log for September 28, 2014, shows a Sgt. Garcia working at the desk, but did not confirm when Sgt. Vladimir Garcia was replaced by Sgt. Kelvin Garcia. The command log also confirmed PO Kern's arrest, but also did not specify if it was PO Sean Kern or PO Daniel Kern (08 Board Review).
- The interrupted patrol log also did not confirm which PO Kern was on duty (09 Board Review).

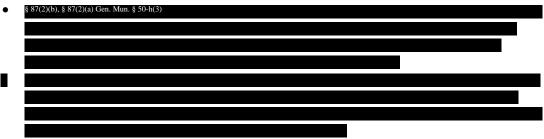
described the subject officer in **Allegation I** as a Hispanic, male, with black

	c, clean shaven, 5'9" tall, 210 to 220 pounds, with dark eyes, mid to late 30's, and in form (Board Review 10 and 11).
•	§ 87(2)(b)

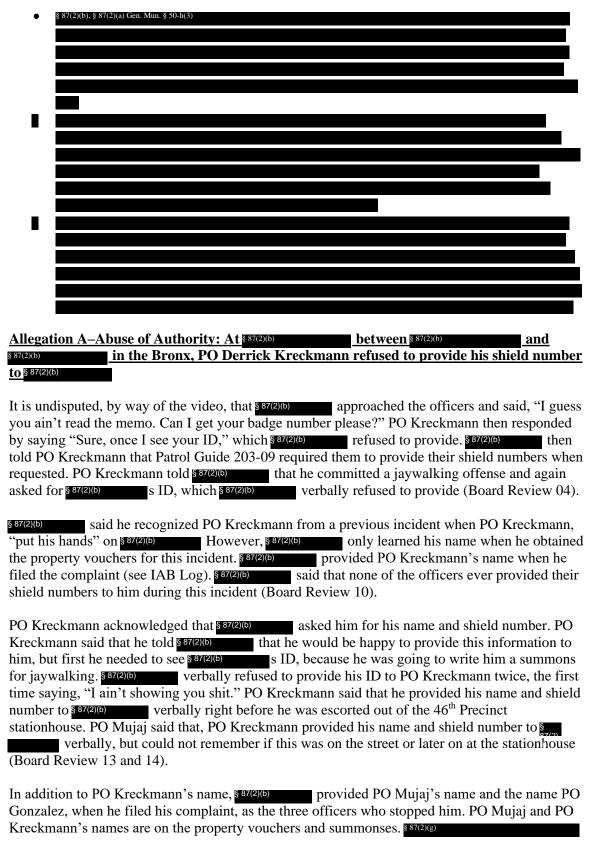
Findings and Recommendations

Allegations not pleaded

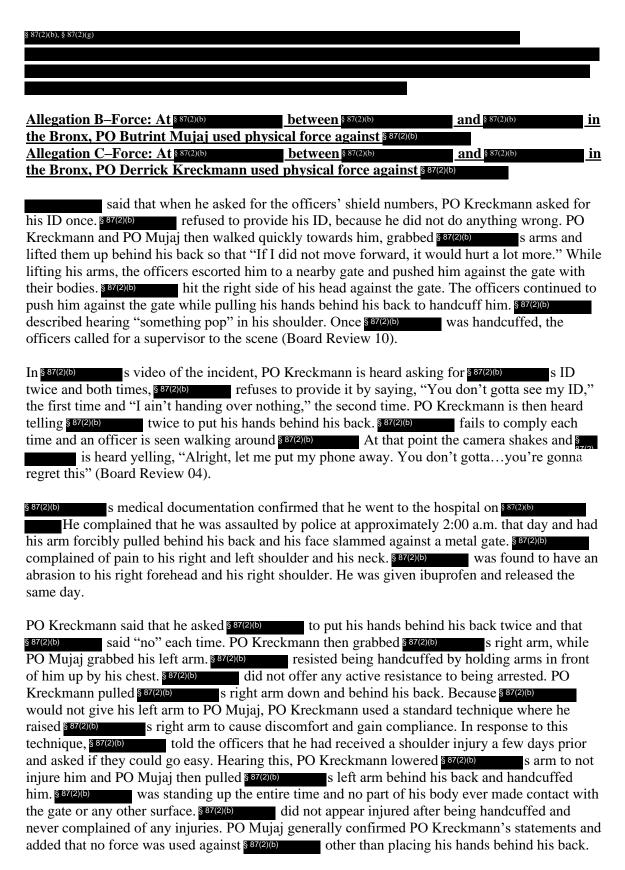
• S87(2)(6) alleged in his CCRB interview that he was stopped for filming the officers, but his video of the incident shows that he was only stopped after jaywalking and he was subsequently issued a summons for jaywalking by PO Mujaj. Therefore, no allegation was pleaded (Board Review 04, 10, and 24).



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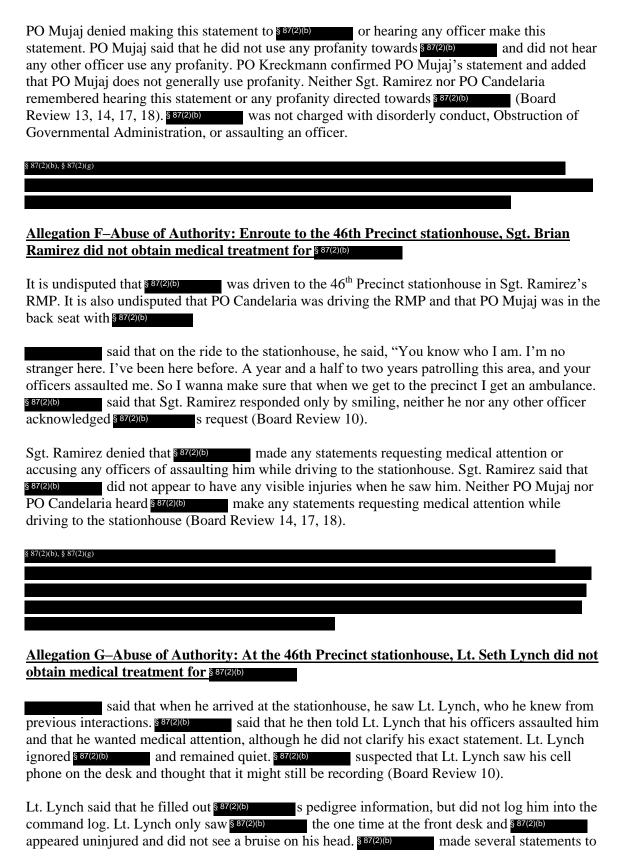


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Neither Sgt. Ramirez, nor PO Candelaria saw any injuries on \$87(2)(b) and neither heard complain of any injuries or any force used against him (Board Review 13, 14, 17, and 18).
P.G. 203-11 states that "Only the amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody." It also states that "Persons taken into custody shall be rear cuffed at the earliest opportunity, to reduce the potential for resistance, which may cause injuries" (Board Review 15).
§ 87(2)(b), § 87(2)(g)
Allegation D–Discourtesy: At \$87(2)(b) between \$87(2)(b) and sourtesly toward \$87(2)(b) in the Bronx, PO Derrick Kreckmann acted discourtesly toward \$87(2)(b)
said that PO Kreckmann grabbed his phone out of his hands and intentionally slammed it onto the brick ledge in front of the gate causing the battery to fall out, but he did not allege that it was damaged (Board Review 10).
PO Kreckmann said that \$87(2)(b) was holding his phone in his hands while he was being handcuffed and that it fell to the ground during the handcuffing process. PO Mujaj confirmed PO Kreckmann's statement. No other officers remembered seeing \$87(2)(b) s cell phone (Board Review 13, 14, and 16).
s video of the incident shows an officer walk around [887(2)(b)] who can then be heard saying, "Alright, let me put my phone away. You don't gottayou're gonna regret this." The camera shakes and the video cuts out (Board Review 04).
§ 87(2)(b), § 87(2)(g)
Allegation E–Discourtesy: At \$87(2)(b) between \$87(2)(b) and \$87(2)(b) in the Bronx, PO Butrint Mujaj spoke discourtesly to \$87(2)(b)
said after Sgt. Ramirez arrived on the scene that PO Mujaj said to him, "Well we got your ass. We got you for disorderly conduct. We got you for assaulting a police officer. We got you for obstructing administration of justice" (Board Review 10).
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never made any statements requesting medical attention, complaining of an injury, or saying that he was assaulted by any officers. Neither Sgt. Ramirez nor PO Mujaj heard \$87(2)(5) make any statements requesting medical attention at the front desk. The command log entry filled out by Sgt. Ramirez lists \$87(2)(5) s condition as apparently normal and notes that he did not request medical attention (Board Review 08, 14, 17, 19).
§ 87(2)(b), § 87(2)(g)
Allegation H-Abuse of Authority: At the 46th Precinct stationhouse, PO Butrint Mujaj strip-searched §87(2)(b)
alleged that PO Mujaj took him into a small 10 by 15 foot bathroom and asked states, to remove his shoe laces. PO Mujaj then instructed asked PO Mujaj why he was doing this when he already frisked \$\frac{8}{37(2)(b)}\$ and removed everything from his pockets. PO Mujaj responded, "Well, people hide stuff in mysterious places." PO Mujaj then instructed \$\frac{8}{37(2)(b)}\$ complied and pulled his underwear down to his knees. PO Mujaj then instructed \$\frac{8}{37(2)(b)}\$ to turn around and squat, which he did. PO Mujaj told \$\frac{8}{37(2)(b)}\$ to turn back around and lift up his testicles. \$\frac{8}{37(2)(b)}\$ complied with these instructions and was then allowed to put his pants and shirt back on (Board Review 10).
PO Mujaj acknowledged that he lodged (100) into the cells at the 46 th Precinct stationhouse. PO Mujaj also stated that he instructed (100) to empty his pockets and remove his belt and shoe laces, which is standard procedure for lodging prisoners. PO Mujaj denied ever strip searching (100) and said that he never instructed (100) to remove his pants or underwear. Furthermore, PO Mujaj never made any statements similar to, "Well, people hide things in mysterious places" (Board Review 14).
Sgt. Ramirez, never authorized a strip search of \$87(2)(6) and did not remember having any discussions with any officers as to whether it would be appropriate to strip search \$87(2)(6) Sgt. Ramirez had no reason to believe that \$87(2)(6) was hiding any contraband and said that it is not standard procedure to strip search every prisoner. Sgt. Ramirez never learned that was strip searched, but left the stationhouse after logging him into the command log. The command log entry filled out by Sgt. Ramirez noted that no strip search was conducted (Board Review 08 and 17).
Lt. Lynch also had no reason to believe that \$87(2)(b) was hiding contraband. Neither Lt. Lynch nor Cpt. Walton ever learned that \$87(2)(b) had been strip searched and both denied that it was standard procedure to strip search all prisoners. No other officers were present when was lodged (Board Review 19).
§ 87(2)(b), § 87(2)(g)

Lt. Lynch threatening to have him transferred and to speak to his commanding officer, but he

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Allegation I–Abuse of Authority: At the 46th Precinct stationhouse, an officer did not obtain medical treatment for \$87(2)(b)
NYPD documents identified five possible subject officers including PO Francis Conejo, PO Daniel Kern, PO Sean Kern, Sgt. Vladimir Garcia, and Sgt. Kelvin Garcia (Board Review 20).
said that while in the holding cell, he interacted with several officers who were dealing with other prisoners. He provided a description of one officer who he interacted with the most and said that he requested medical attention from. This officer he described as a Hispanic, male, with black hair, clean shaven, 5'9" tall, 210-220 pounds, dark eyes, mid to late 30's, in uniform (Board Review 10).
PO Mujaj was the only officer who remembered visiting \$87(2)(b) while he was in the holding cells, but did not hear \$87(2)(b) request medical attention from any officers (Board Review 14).
§ 87(2)(b). § 87(2)(g)
\$ 0.(2)(b), \$ 0.(2)(b)
Allogation I Discountages At the 46th Duscingt stationhouse Cat Weith Welton speke
Allegation J-Discourtesy: At the 46th Precinct stationhouse, Cpt. Keith Walton spoke discourtesly to S87(2)(b)
Cpt. Walton admitted that he had \$87(2)(0) brought into his office prior to him being escorted

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was then escorted or Walton's office door was closed, i			e Cpt.
§ 87(2)(b), § 87(2)(g)			
§ 87(2)(g), § 87(4-b)			
Pod: 1			
Investigator: Signature	Print	 Date	_
-			
Supervisor: Title/Signature	Print	Date	-
Reviewer:			
Title/Signature	Print	Date	_
Reviewer:			
Title/Signature	Print	Date	_